

Union Calendar No. 441

108TH CONGRESS
2D SESSION

H. R. 4389

[Report No. 108–718, Part 1]

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2004

Mr. ISSA introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 4, 2004

Reported from the Committee on Resources

OCTOBER 4, 2004

Referral to the Committee on Armed Services extended for a period ending not later than October 4, 2004

OCTOBER 4, 2004

The Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic,

military, and other uses from the Santa Margarita River, California, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS.**

4 For the purposes of this section, the following defini-
 5 tions apply:

6 (1) DISTRICT.—The term “District” means the
 7 Fallbrook Public Utility District, San Diego County,
 8 California.

9 (2) PROJECT.—The term “Project” means the
 10 impoundment, recharge, treatment, and other facili-
 11 ties the construction, operation, and maintenance of
 12 which is authorized under subsection (b).

13 **SEC. 2. AUTHORIZATION FOR CONSTRUCTION OF LOWER**
 14 **SANTA MARGARITA CONJUNCTIVE USE**
 15 **PROJECT.**

16 (a) AUTHORIZATION.—The Secretary, acting pursu-
 17 ant to the Federal reclamation laws (Act of June 17,
 18 1902; 32 Stat. 388), and Acts amendatory thereof or sup-
 19 plementary thereto, as far as those laws are not incon-
 20 sistent with the provisions of this Act, is authorized to
 21 construct, operate, and maintain to make the yield of the
 22 Lower Santa Margarita Conjunctive Use Project to be lo-
 23 cated below the confluence of De Luz Creek with the
 24 Santa Margarita River on Camp Joseph H. Pendleton, the

1 Fallbrook Annex of the Naval Weapons Station, and sur-
2 rounding lands within the service area of the District
3 available for irrigation, municipal, domestic, military, and
4 other uses for the District and such other users as herein
5 provided.

6 (b) CONDITIONS.—The Secretary of the Interior may
7 construct the Project only after the Secretary of the Inte-
8 rior determines that the following conditions have oc-
9 curred:

10 (1) The District has entered into a contract
11 under section 9(d) of the Reclamation Project Act of
12 1939 to repay to the United States appropriate por-
13 tions, as determined by the Secretary, of the actual
14 costs of constructing, operating, and maintaining the
15 Project, together with interest as hereinafter pro-
16 vided.

17 (2) The officer or agency of the State of Cali-
18 fornia authorized by law to grant permits for the ap-
19 propriation of water has granted such permits to the
20 Bureau of Reclamation for the benefit of the De-
21 partment of the Navy and the District as permittees
22 for rights to the use of water for storage and diver-
23 sion as provided in this Act, including approval of all
24 requisite changes in points of diversion and storage,
25 and purposes and places of use.

1 (3) The District has agreed that it will not as-
2 sert against the United States any prior appropria-
3 tive right the District may have to water in excess
4 of the quantity deliverable to it under this Act, and
5 will share in the use of the waters impounded by the
6 Project on the basis of equal priority and in accord-
7 ance with the ratio prescribed in section 4(b). This
8 agreement and waiver and the changes in points of
9 diversion and storage under paragraph (2), shall be-
10 come effective and binding only when the Project
11 has been completed and put into operation.

12 (4) The Secretary of the Interior has deter-
13 mined that the Project has economic and engineer-
14 ing feasibility.

15 **SEC. 3. COSTS.**

16 The Department of the Navy shall not be responsible
17 for any costs in connection with the Project, except upon
18 completion and then shall be charged in reasonable pro-
19 portion to its use of the Project under regulations agreed
20 upon by the Secretary of the Navy and Secretary of the
21 Interior.

22 **SEC. 4. OPERATION; YIELD ALLOTMENT; DELIVERY.**

23 (a) OPERATION.—The operation of the Project may
24 be by the Secretary of the Interior or otherwise as agreed
25 upon by the Secretaries of the Interior and the Navy and

1 the District, under regulations satisfactory to the Sec-
2 retary of the Navy with respect to the Navy's share of
3 the impounded water and national security.

4 (b) YIELD ALLOTMENT.—Except as otherwise agreed
5 between the parties, the Department of the Navy and the
6 District shall participate in the water impounded by the
7 Project on the basis of equal priority and in accordance
8 with the following ratio:

9 (1) 60 percent of the Project's yield is allotted
10 to the Secretary of the Navy.

11 (2) 40 percent of the Project's yield is allotted
12 to the District.

13 (c) CONTRACTS FOR DELIVERY OF WATER.—

14 (1) IN GENERAL.—If the Secretary of the Navy
15 certifies that the Secretary does not have immediate
16 need for any portion of the 60 percent yield allotted
17 under subsection (b), the official agreed upon to ad-
18 minister the Project may enter into temporary con-
19 tracts for the delivery of the excess water.

20 (2) FIRST RIGHT FOR EXCESS WATER.—The
21 first right of the Secretary of the Navy to demand
22 that water without charge and without obligation on
23 the part of the United States after 30 days notice
24 shall be included as a condition of contracts entered
25 into under this subsection. The first right to water

1 available under paragraph (1) shall be given the Dis-
2 trict, if otherwise consistent with the laws of the
3 State of California.

4 (3) DISPOSITION OF FUNDS.—Moneys paid in
5 to the United States under a contract under this
6 subsection shall be covered into the general Treasury
7 or to the Secretary of the Navy, as services in lieu
8 of payment for operation and maintenance of the
9 Project, and shall not be applied against the indebt-
10 edness of the District to the United States.

11 (4) MODIFICATION OF RIGHTS AND OBLIGA-
12 TIONS RELATED TO WATER YIELD.—The rights and
13 obligations of the United States and the District re-
14 garding the ratio or amounts of Project yield deliv-
15 ered may be modified by an agreement between the
16 parties.

17 **SEC. 5. REPAYMENT OBLIGATION OF THE DISTRICT.**

18 (a) IN GENERAL.—The general repayment obligation
19 of the District (which shall include interest on the
20 unamortized balance of construction costs of the Project
21 allocated to municipal and domestic waters at a rate equal
22 to the average rate, which rate shall be certified by the
23 Secretary of the Treasury, on the long-term loans of the
24 United States outstanding on the date of this Act) to be
25 undertaken pursuant to section 2 shall be spread in an-

1 nual installments, which need not be equal, over a period
2 of not more than 56 years, exclusive of the development
3 period, or as near thereto as is consistent with the oper-
4 ation of a formula, mutually agreeable to the parties,
5 under which the payments are varied in the light of factors
6 pertinent to the irrigators' ability to pay.

7 (b) DEVELOPMENT PERIOD.—The development pe-
8 riod shall begin in the year in which water for use by the
9 District is first available, as announced by the Secretary
10 of the Interior or the Treasury, and shall end in the year
11 in which the Project's yield to the District exceeds 6,000
12 acre-feet per annum. During the development period water
13 shall be delivered to the District under annual water rental
14 notices at rates fixed by the Secretary of the Interior or
15 the Treasury and payable in advance, and any moneys col-
16 lected in excess of operation and maintenance costs shall
17 be credited to repayment of the capital costs chargeable
18 to the District and the repayment period fixed herein shall
19 be reduced proportionately.

20 (c) MODIFICATION OF RIGHTS AND OBLIGATION BY
21 AGREEMENT.—The rights and obligations of the United
22 States and the District regarding the repayment obliga-
23 tion of the District may be modified by an agreement be-
24 tween the parties.

1 **SEC. 6. TRANSFER OF CARE, OPERATION, AND MAINTENANCE.**
2

3 The Secretary may transfer to the District, or a mu-
4 tually agreed upon third party, the care, operation, and
5 maintenance of the Project under conditions satisfactory
6 to that Secretary and the District, and with respect to
7 the portion of the Project that is located within the bound-
8 aries of Camp Pendleton, satisfactory also to the Secretary
9 of the Navy. If such a transfer takes place, the District
10 shall be entitled to an equitable credit for the costs associ-
11 ated with the Secretary's proportionate share of the oper-
12 ation and maintenance of the Project. The amount of such
13 costs shall be applied against the indebtedness of the Dis-
14 trict to the United States.

15 **SEC. 7. SCOPE OF ACT.**

16 For the purpose of this Act, the basis, measure, and
17 limit of all rights of the United States pertaining to the
18 use of water shall be the laws of the State of California.
19 That nothing in this Act shall be construed—

20 (1) as a grant or a relinquishment by the
21 United States of any rights to the use of water that
22 it acquired according to the laws of the State of
23 California, either as a result of its acquisition of the
24 lands comprising Camp Joseph H. Pendleton and
25 adjoining naval installations, and the rights to the
26 use of water as a part of that acquisition, or through

1 actual use or prescription or both since the date of
2 that acquisition, if any;

3 (2) to create any legal obligation to store any
4 water in the Project, to the use of which the United
5 States has such rights;

6 (3) to constitute a recognition of, or an admis-
7 sion that, the District has any rights to the use of
8 water in the Santa Margarita River, which rights, if
9 any, exist only by virtue of the laws of the State of
10 California; or

11 (4) to require the division under this Act of
12 water to which the United States has such rights.

13 **SEC. 8. LIMITATIONS ON OPERATION AND ADMINISTRA-**
14 **TION.**

15 Unless otherwise agreed by the Secretary of the
16 Navy, the Project—

17 (1) shall be operated in a manner which allows
18 the free passage of all of the water to the use of
19 which the United States is entitled according to the
20 laws of the State of California either as a result of
21 its acquisition of the lands comprising Camp Joseph
22 H. Pendleton and adjoining naval installations, and
23 the rights to the use of water as a part of those ac-
24 quisitions, or through actual use or prescription, or
25 both, since the date of that acquisition, if any; and

1 (2) shall not be administered or operated in any
2 way which will impair or deplete the quantities of
3 water the use of which the United States would be
4 entitled under the laws of the State of California
5 had the Project not been built.

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated, out of any
8 money in the Treasury of the United States not otherwise
9 appropriated, the following:

10 (1) \$60,000,000 (the current estimated con-
11 struction cost of the Project, plus or minus such
12 amounts as may be indicated by the engineering cost
13 indices for this type of construction); and

14 (2) such sums as may be required to operate
15 and maintain the said project.

16 **SEC. 10. REPORTS TO CONGRESS.**

17 Not later than 1 year after the date of the enactment
18 of this Act and periodically thereafter, the Attorney Gen-
19 eral, the Secretary of the Interior, and the Secretary of
20 the Navy shall each report to the Congress regarding if
21 the conditions specified in section 2(b) have been met and
22 if so, the details of how they were met.

Union Calendar No. 441

108TH CONGRESS
2^D Session

H. R. 4389

[Report No. 108-718, Part 1]

A BILL

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

OCTOBER 4, 2004

Reported from the Committee on Resources

Referral to the Committee on Armed Services extended for a period ending not later than October 4, 2004

The Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed